

Attorney Docket No.: DC-0305
Inventors: Moskalev and Gribble
Serial No.: 10/528,090
Filing Date: September 22, 2005
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REMARKS

Claim 1 is pending in the instant application. Claim 1 has been rejected and amended. No new matter has been added by this amendment. Reconsideration is respectfully requested in light of the following remarks.

I. Rejection of Claims Under 35 U.S.C. §112

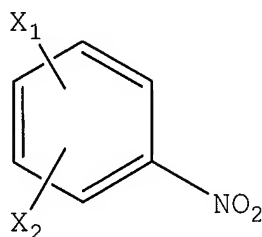
Claim 1 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, it is suggested that the recitation of "or a derivative thereof" renders the claim indefinite as it is not clear what the structural make-up of the derivative is.

Claim 1 has also been rejected under 35 U.S.C. 112, first paragraph, because the specification while being enabling for the purposes of making 3-amino-1,2,4-benzotriazine compound from nitrobenzene and substituted nitrobenzenes positively recited in the specification at pages 3-4 does not reasonably provide enablement for any or all derivatives generically embraced in claim 1. It is suggested that the specification does not, for example, teach how to avoid an undesired product such as a benzotriazine oxide produced from 4-chlorobenzamide which reacts with guanidine as taught in U.S. Patent No. 5,175,287. The Examiner suggests that factors such as lack of predictability, lack of direction or guidance by the application, lack of working examples, breadth of claims and quantity of experimentation required would not enable one of skill in the art to make the invention commensurate in scope with the claims.

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Applicants respectfully disagree with these rejections.

As acknowledged by the Examiner, Applicants have clearly provided at pages 3 and 4 nitrobenzene or nitrobenzene derivatives considered to be within the scope of the claim. Accordingly, in view of the teachings of the present invention, it would readily clear to one of skill in the art nitrobenzenes or nitrobenzene derivatives that would be useful for carrying out the method of the present invention. However, in an earnest effort to clarify the present method, Applicants have amended claim 1, removing reference to the phrase "or a derivative thereof", and provided a listing of suitable nitrobenzenes for use in the instant method. As supported by the disclosure at pages 3 and 4, claim 1 reads on a nitrobenzene reactant of the structure



wherein X₁ and X₂ are independently the same or different and are a hydrogen; a nitro group; a cyano group; a halogen; a hydroxyl group; -NH₂; -NHR', -NR'R', -OCOR', -NH(CO)R', -O(SO)R' or -O(POR')R', wherein R' is a substituted or unsubstituted lower alkyl; or an alkyl group, wherein said alkyl is substituted or unsubstituted, cyclic or acyclic, branched or unbranched, or interrupted by a single ether linkage. Having imparted into the instant method the nitrobenzene and substituted nitrobenzenes positively recited in the specification at pages 3-4, the

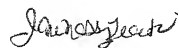
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enablement requirement has been met. It is therefore respectfully requested that this rejection be reconsidered and withdrawn.

II. Conclusion

The Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,



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